

REMARKS

This amendment is submitted under the provisions of 37 CFR 1.116.

The specification was amended in order to correct minor typographical errors noted at pages 7 and 8 thereof.

Claim 37 was amended in order to better define the invention. Claim 37 was amended to incorporate therein certain subject matter from allowable claim 41 with regard to a summing circuit etc. Since the subject matter added above to claim 37 has presumably been searched and considered in connection with claim 41, the above amendment to claim 37 will not require further consideration and/or search by the Patent and Trademark Office.

Claims 41 and 46 were rewritten into independent form including all of the subject matter of their base claim and any intervening claims.

Claim 37 was rejected under 35 USC 102(b) as being anticipated by Daub (USP 5,103,143).

Although applicants do not agree that claim 37, as originally presented, is anticipated by the discharge lamp starting apparatus of Daub, nevertheless, in order to advance the prosecution of this application, they have amended claim 37 to include therein certain novel subject matter from claim 41 that clearly is not disclosed in the Daub patent.

More particularly, amended claim 37 now recites that the

control circuit includes a novel summing circuit indicative of approximated lamp power. In contrast, Daub clearly discloses a multiplier circuit LI for deriving not an approximated lamp power, but rather the actual power-value (see column 3, lines 8-11 of Daub). The significance of the distinction between a multiplication function and a summation (adding) function was discussed in the first amendment dated 2/6/03 in this application. The validity of this distinction was implicitly admitted by the Patent and Trademark Office in the second Office Action (dated 5/7/03) where new art was applied in order to overcome applicant's previous argument on this issue (i.e. in the amendment dated 2/6/03).

In view of the foregoing significant and patentable structural distinction of amended claim 37 over the Daub apparatus (i.e. the summing circuit versus a multiplier circuit), as amended, claim 37 is not anticipated by Daub. The final rejection therefore does not present a prima facie case of anticipation of amended claim 37 because it does not contain the requisite factual support therefor. Reconsideration and allowance of amended claim 37 is therefore respectfully requested.

Claims 38-40 were rejected under 35 USC 103(a) as being unpatentable over Daub in view of Bernitz et al (USP 5,198,728).

Aside from the fact that the motivation to combine Bernitz et al with Daub is very dubious, since the above amendment of claim 37 clearly takes it out of the purview of the Daub apparatus.

Therefore, any combination of Daub and Bernitz et al, even if obvious (which combination is dubious), still would not result in the novel apparatus of amended claim 37 comprising a novel control circuit including a summing circuit for generating a summation voltage indicative of the approximated lamp power.

Claims 38-40 are dependent on amended claim 37 and are patentable over the applied prior art because, inter alia, the final rejection does not present the factual evidence requisite to support a prima facie case of obviousness under 35 USC 103 for claims 38-40 in view, at least, of amended claim 37. Reconsideration and allowance of claims 38-40 is respectfully requested.

Entry of this amendment is requested because it will place the application in condition for allowance or alternatively in better form for appeal. Entry is proper because, as discussed above, the amendment to claim 37 does not present any new subject matter, but only old subject matter from claim 41. The amendment of claim 37 will not require further consideration and/or search by the Patent and Trademark Office. The amendment of claim 37 was not made earlier because the new art now relied upon by the Patent and Trademark Office was not a part of the file record until the final rejection of 10/22/03.

Reexamination and allowance of the application are respectively requested.

Respectfully submitted,

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